

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

Henry Green,	)	Civil Action No. 5:15-4867-RMG
	)	
Petitioner,	)	
	)	
v.	)	<b>ORDER</b>
	)	
Cecilia Reynolds, <i>Warden</i> ,	)	
	)	
Defendant.	)	
	)	

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Before the Court is Petitioner's motion for reconsideration of the Order adopting the Magistrate Judge's recommendation that his petition for habeas relief be dismissed. (Dkt. No. 40.) On July 29, 2016, the Court adopted the Report and Recommendation of the Magistrate Judge, recommending that the petition be dismissed because it was untimely filed by almost seven years. (Dkt. No. 32.) On August 1, 2016, Petitioner mailed untimely objections to the Report and Recommendation. (Dkt. No. 35.) The Court construed those untimely objections as a motion to reconsider the order adopting the Report and Recommendation, and denied the constructive motion. (Dkt. No. 36.) Petitioner's present motion for reconsideration admits that his objections were untimely under the prison mailbox rule, but asserts that he was unable to timely mail his objections because his prison was locked down for several days in July. (Dkt. No. 40 at 1–2.)

The Court accepts Petitioner's explanation for the untimely mailing of his objections insofar as the Court will not penalize him for mailing his objections four days after the deadline. The Court did not deny his objections, construed as a motion for reconsideration, because they were untimely. The Court rejected Petitioner's objections on their merits, for the reasons explained in its Order of August 4, 2016:

Petitioner simply repeats his argument that the habeas limitations period should be equitably tolled because his attorney, Tara Shurling, misled him into thinking that she was going to file a petition for rehearing on his behalf with the South Carolina Supreme Court. The Magistrate Judge, after review of correspondence between Ms. Shurling and Petitioner, found no merit in that argument, and the Court agreed with the Magistrate Judge's determination. As Petitioner brings no new evidence or argument to the Court's attention, his constructive motion for reconsideration is DENIED."

(Dkt. No. 36 at 2–3 (citation omitted).)

Petitioner's present motion for reconsideration only asks that the Court consider his objections to the Report and Recommendation on their merits, despite their untimely mailing.

(Dkt. No. 40 at 2.) Because the Court has already done so, the Court **DENIES AS MOOT**

Petitioner's motion to reconsider (Dkt. No. 40).

**AND IT IS SO ORDERED.**

A handwritten signature in black ink, appearing to read 'RM Bergel', written over a horizontal line.

Richard Mark Bergel  
United States District Court Judge

August 16 2016  
Charleston, South Carolina